

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 DAVID MUNGAI NJENGA,

12 Plaintiff,

13 v.

14 WARDEN NWDC, et al,

15 Defendants.
16

No. C08-5679 RJB/KLS

ORDER DIRECTING PLAINTIFF TO
FILE PROOF OF SERVICE OF
PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER

17 This civil rights action has been referred to United States Magistrate Judge Karen L.
18 Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Before the Court is
19 Plaintiff's Motion for Preliminary Injunction. Dkt. 29. This is the third motion for preliminary
20 injunction filed by Plaintiff. His first motion was filed prior to service of the Complaint on
21 Defendants. The court struck the motion from the calendar and advised Plaintiff that he must
22 serve Defendants with the motion and re-note it on the court's calendar after Defendants
23 appeared and filed an answer. Dkt. 19. Plaintiff's second motion was filed on September 21,
24 2009, prior to the filing of Defendants' answer. Dkts. 20 and 24, respectively. Plaintiff did not
25 serve Defendants with his second motion; however, Defendants responded to the motion, and the
26

1 court issued its report and recommendation that the motion be denied. Dkts. 21 and 26. The
2 district court adopted the motion and denied the injunctive relief requested by Plaintiff. Dkt. 28.

3 Plaintiff has not filed a certificate of mailing reflecting that he has served the Defendants
4 with his current motion. Dkt. 29. Consequently, the court will not consider the motion at this
5 time. Plaintiff is advised that, pursuant to Federal Rule of Civil Procedure 65(a)(1), no
6 preliminary injunction can be issued without notice to the opposing party. A temporary
7 restraining order may be granted under Rule 65(b), but only if:
8

- 9 1) it clearly appears from specific facts shown by affidavit or by the verified
10 complaint that immediate and irreparable injury, loss or damage will result
11 to the applicant before the adverse party or that party's attorney can be
12 heard in opposition, and
- 13 2) the [applicant] certifies to the court in writing the efforts, if any, which
14 have been made to give the notice and the reasons supporting the claim
15 that notice should not be required.

16 Fed. R. Civ. P. 65(b).

17 Accordingly, it is **ORDERED** that Plaintiff shall file a proof of service of his motion for
18 injunctive relief (Dkt. 29) on the defendants. Plaintiff shall do so **on or before February 12,**
19 **2010**, or this motion shall be stricken from the court's docket.

20 The Clerk is directed to send copies of this Order to Plaintiff and counsel for Defendants.

21 DATED this 25th day of January, 2010.

22
23 

24 Karen L. Strombom
25 United States Magistrate Judge
26